Office of the Clerk
Court of Appeal for the State
of California
300 South Spring Street, Room 228
Los Angeles, CA 90013

February 27, 1991

Re: Church of Scientology of California and Mary Sue Hubbard, Appellants, v. Gerald Armstrong, Defendant; Bent Corydon, Appellee. Civ. No. B 038975

Dear Sir or Madam:

Defendant Gerald Armstrong requests that you bring this letter to the attention of the judges who heard this appeal on February 20, 1991.

During oral argument defendant provided incomplete citations for two cases which acknowledge appellant organization's policy of "fair game." The complete citations are Allard v. Church of Scientology (1976) 58 Cal. App. 3d 439, 129 Cal. Rptr. 797, and Wollersheim v. Church of Scientology of California (1989) 212 Cal. App. 3d 872, 260 Cal. Rptr. 331.

On February 26, 1991 defendant received a letter brief dated February 19 which appellants provided the court prior to the February 20 oral argument, but which defendant did not know of until February 21 and did not read until February 26. Attached hereto as Exhibit A is a copy of the envelope which contained this letter brief showing that it was mailed to defendant on February 22, 1991. Since defendant was denied the opportunity at oral argument to respond to any of the statements made by appellants in their letter brief, he respectfully requests to be allowed to do so now.

Appellants state that their reason for filing their letter brief when they did was because no provision was made for them to respond to defendant's brief filed December 31, 1990. Rule 16 of the California Rules of Court, however, requires that appellants' reply brief be filed within 20 days of filing of respondent's brief; i.e., by January 20, 1991. By delaying the filing of their reply brief until the day before the scheduled oral argument and not serving the reply brief on defendant until after oral argument appellants have landed a punch after the bell and should have a point taken away; or in this case their reply letter brief should be accepted as another instance of their jurisprudential chicanery.

Appellants have asked that the materials contained in defendant's appendix be disregarded, claiming they are not part of the record on this appeal. Of the 388 pages, however, 261 pages are documents from the court file appellants are attempting to keep sealed, and 29 pages are documents already filed at other times in this appeal before this court. The remaining 98 pages are documents which relate directly to the issue of unsealing the trial court's file, and which defendant included to assist this court in its decision making process.

Since appellants have offered their own description of the contents of the court file in support of their arguments to keep the file sealed, it is completely proper for defendant to describe the file contents, and include in his appendix documents from the file to demonstrate that they are completely different from appellants' description.

Regarding the document entitled Response of Gerald Armstrong to Opposition Filed By Real Party In Interest Bent Corydon filed by defendant's attorney in this appeal on December 28, 1988, defendant has already stated the facts and his position in his pleading filed in this appeal entitled Defendant's Reply To Appellants' Opposition To Petition For Permission To File Response and For Time To File, Defendant's Appendix (DA)at 44. When told by his attorney that appellant organization wanted him to file a document to keep the court file sealed defendant refused. Only in November 1989 did defendant learn that his attorney had filed the December 28, 1988 response "on his behalf", and that the Division Four Court had denied it.

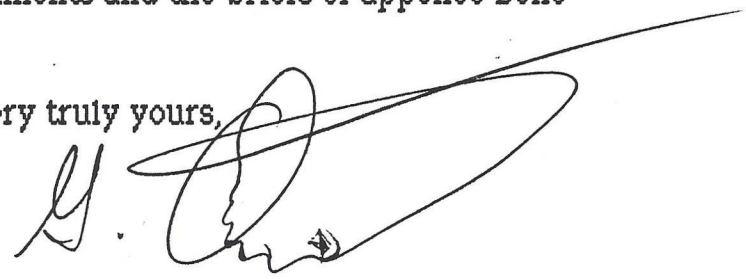
No matter how appellants contrive it, sealing the court file was not and is not an integral , indispensable part of the settlement. Defendant was remunerated for his release of the claims of his cross-complaint prior to trial. The settlement can stand with or without the sealing of the file. Appellants, however, have acted since the settlement in ways which make the continued sealing of the file an obstruction of justice. Defendant does not contest the settlement; he contests the conditions of the settlement which are against public policy and call for him to obstruct justice, and he contests the threats and attacks on him by appellant organization following the settlement.

Appellants' complaining that defendant has suggested that the settlement agreement imposed a confidentiality requirement on appellant organization is deceptive bullet-dodging. It is appellants who maintained that the confidentiality requirement applied to them as well as defendant, DA at 6, Ex. D to the March 15, 1990 Declaration. Only when confronted with their violations of this position did appellants shift to their present position

where they claim only defendant is bound by the confidentiality requirement while they are free to say and file whatever they want about him. Such a position is acceptable and reasonable,of course, as long as neither party said or filed anything about the other. As soon as appellants said or filed anything about defendant they freed him from the confidentiality requirement since their act was post-settlement, he had released them from their acts only up to the date of the settlement, and he had a right to defend himself. Appellants' interpretation of the settlement agreement's confidentiality requirement turns defendant into a defenseless punching bag, which is pleasing to them, but an unacceptable concept in our system of justice.

Concerning any other matters in appellants' letter brief, defendant relies on his brief and related documents and the briefs of appellee Bent Corydon filed in this appeal.

Very truly yours,



Gerald Armstrong
Defendant

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cc: Eric M. Lieberman, Esq.
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